

21 C.J.S. Courts § 141

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Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

IV. Terms and Sessions

B. Terms

1. In General

§ 141. Vacation of court and proceedings therein

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Under the construction of some statutes, as well as at common law, vacation is limited to the period between terms; but as used in other statutes, it includes a recess extending over one or more judicial days.

At common law, "vacation" means the period between the end of one term and the beginning of another¹ and not intervals of time between the actual sessions or meetings of the court during the term, such as those resulting from temporary recesses or adjournments.² Whether the common-law meaning should be given to the word "vacation" as used in a particular statute depends on the subject matter, scope, and purpose of the law and the sense in which the word was used by the framers of the law.³

The general rule is that all judicial business should be transacted by a court in term time,⁴ if only where the court is sitting as a court of original jurisdiction,⁵ and that such (and only such) business may be transacted in vacation as is specially authorized by constitutional or valid statutory provisions.⁶ "In vacation" jurisdiction under a statute permitting the parties to apply for relief to the trial court in vacation arises from the trial court's general jurisdiction of all in-chambers matters arising in the district.⁷

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Footnotes

¹ Mo.—*Trower v. Mudd*, 242 S.W. 993 (Mo. Ct. App. 1922).

- 2 Neb.—Wallace v. Clements, 124 Neb. 691, 248 N.W. 58 (1933).
- 3 Mo.—Trower v. Mudd, 242 S.W. 993 (Mo. Ct. App. 1922).
- 4 N.Y.—Jacobs v. Steinbrink, 242 A.D. 197, 273 N.Y.S. 498 (2d Dep't 1934).
- Tex.—Citizens State Bank of Frost v. Miller, 115 S.W.2d 1183 (Tex. Civ. App. Waco 1938).
- 5 Miss.—City of Gulfport v. Saxton, 437 So. 2d 1215 (Miss. 1983).
- 6 Miss.—State Highway Commission v. Day, 181 Miss. 708, 180 So. 794 (1938).
- 7 N.C.—State v. Collins, 234 N.C. App. 398, 761 S.E.2d 914 (2014).

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